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STATE OF CALIFORNIA  
**dca**  
DEPARTMENT OF CONSUMER AFFAIRS

August 7, 2008

Subject: **ENROLLED AGENT EXEMPTION TO LICENSING AS A PROFESSIONAL FIDUCIARY IN CALIFORNIA**

Attention Interested Parties of the Professional Fiduciaries Bureau:

This Advisory relates to the "Enrolled Agent" exemption for licensing as a professional fiduciary in California pursuant to Section 6530(d) of the Business and Professions Code

Section 6530 (d) of the Business and Professions Code, related to licensing as a professional fiduciary, provides:

6530. (a) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person is licensed as a professional fiduciary in accordance with the provisions of this chapter...

(d) This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations.

Enrolled agents are certified to represent taxpayers before the Internal Revenue Service. Under Section 10.2 of Subpart A, Rules Governing Authority to Practice, of Part 10 of Title 31 of the Code of Federal Regulations, the following is the definition of the practice of an enrolled agent:

"Practice before the Internal Revenue Service comprehends all matters connected with a presentation to the Internal Revenue Service or any of its officers or employees relating to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include, but are not limited to, preparing and filing documents, corresponding and communicating with the Internal Revenue Service, rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion, and representing a client at conferences, hearings and meetings."

As applied to licensing as a professional fiduciary in California, an enrolled agent is exempt from licensure if they are serving as a conservator, guardian, trustee, or agent under durable power of attorney for health care or finances, as defined in the Professional Fiduciaries Act (Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code)), within the scope of practice of an enrolled agent pursuant to Part 10 of Title 31 of the Code of Federal Regulations.

An enrolled agent practicing as a professional fiduciary outside the scope of practice of an enrolled agent must obtain a license as a professional fiduciary in accordance with the requirements of the Professional Fiduciaries Act to "act or hold himself or herself out to the public as a professional fiduciary" (Section 6530(a) of the Business and Professions Code and Section 60.1(b) of the Probate Code). Otherwise, practicing without a license is a violation of the law.

Thanks  
Mellonie Yang, Chief  
Professional Fiduciaries Bureau